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FISCAL IMPACT STATEMENT

LS 6538

BILL NUMBER: SB 285

NOTE PREPARED: Jan 1, 2009

BILL AMENDED:

SUBJECT: Sale and Tracking of Ephedrine.

FIRST AUTHOR: Sen. Yoder

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill prohibits a retailer from selling, and a purchaser from purchasing, more than three and six-tenths grams of ephedrine or pseudoephedrine on one day, or nine grams of ephedrine or pseudoephedrine in a 30-day period.

The bill requires a retailer to electronically transmit certain information concerning the sale of ephedrine and pseudoephedrine to the PSE tracking system provided by the National Association of Drug Diversion Investigators. It also provides that the failure to transmit certain information to the PSE tracking system or the sale of ephedrine or pseudoephedrine in violation of a stop-sale notice from the PSE tracking system is a Class C misdemeanor, and is enhanced to a Class A misdemeanor for a repeat offense.

The bill requires the Indiana State Police (ISP) to enter into a memorandum of understanding with the National Association of Drug Diversion Investigators concerning the operation of the PSE tracking system.

Effective Date: July 1, 2010; January 1, 2011.

Explanation of State Expenditures: *Electronic Log:* Current law requires retailers selling drugs with ephedrine or pseudoephedrine to complete a paper or electronic log. Currently, three retailers are electronically submitting data to the ISP. Records, both electronic and paper records are maintained for two years, unless a suspicious pattern of consumption is detected in the electronic records, at which point a record may be maintained for five years.

Handgun license fees in excess of \$1.1 M are available to the ISP to operate and maintain the central repository for criminal history or to establish, operate, and maintain an electronic log of drug sales if the

funds are allotted by the State Budget Agency. No funds have been allotted or expended on the electronic log to date. (Indiana was given software by Tennessee for the electronic log.) In FY 2009, the total handgun license fee revenues were \$6.4 M, and the portion available for the two allowed purposes was approximately \$5.3 M.

National Association of Drug Diversion Investigators (NADDI): The bill requires the ISP to enter into a memorandum of understanding with NADDI concerning the implementation of the National Precursor Log Exchange (NPLEx). The NPLEx is a multi-state electronic tracking system that enforces purchase limitations on over-the-counter products containing pseudoephedrine in real time at the point of sale. NPLEx provides law enforcement agencies across the country with free access to the multi-state log of cold and allergy medicine purchases. The technology for the system is based on a system developed and tested in Kentucky in 2005. Kentucky, Illinois, and Louisiana will be the first states to adopt NPLEx as their electronic tracking program. It is not known if the NADDI system is compatible with the electronic log that the ISP received from Tennessee.

The bill specifies that retailers and law enforcement agencies may not be charged a fee for access to the system. The cost of deploying the NPLEx system has been covered by a public/private partnership that NADDI negotiated with the leading manufacturers of the products. The system is now being offered at no cost to states that have passed legislation to adopt real-time tracking of ephedrine and pseudoephedrine.

Explanation of State Revenues: The bill provides that a person that knowingly or intentionally fails to enter specified information into an electronic tracking system before completing the sale of ephedrine or pseudoephedrine products or that overrides a stop-sale alert issued by the system, with certain exceptions, commits a Class C misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction related to the retail sale of ephedrine or pseudoephedrine products. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C misdemeanor is \$500. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: A Class C misdemeanor is punishable by up to 60 days in jail. A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected:

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: NADDI at:

http://associationdatabase.com/aws/NADDI/asset_manager/get_file/12195/naddi_press_release_nov_2009.pdf

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